

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO R. RODAS PORTILLO,
Plaintiff,
v.
CITY OF SHAFTER, et al.,
Defendants.

Case No. 1:23-cv-00920-JLT-BAM (PC)
ORDER VACATING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF ACTION FOR FAILURE TO
PROSECUTE
(Doc. 29)
THIRTY-DAY DEADLINE

Plaintiff Mario R. Rodas Portillo, a former county jail inmate and former state prisoner, proceeds *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. On January 15, 2025, the Court screened Plaintiff's second amended complaint and granted him leave to amend within thirty days. (Doc. 28.) On January 27, 2025, the Court's order was returned as "Undeliverable, Unable to Forward." Plaintiff failed to timely update his address in compliance with Local Rule 183(b). Accordingly, on March 5, 2025, the Court issued findings and recommendations to dismiss this action for failure to prosecute. (Doc. 29.)

On March 24, 2025, while the findings and recommendations were pending, Plaintiff's address was updated. He has subsequently been re-served with the Court's January 15, 2025 screening order and the findings and recommendations. (*See generally* Docket.)

In light of Plaintiff's updated address and re-service of the Court's January 15, 2025

1 screening order, it is HEREBY ORDERED as follows:

2 1. The findings and recommendations issued on March 5, 2025 (Doc. 29) are HEREBY
3 VACATED.

4 2. As directed in the Court's January 15, 2025 screening order (Doc. 28), **within thirty**
5 **(30) days from re-service of the screening order**, Plaintiff must either:

6 a. File a third amended complaint curing the deficiencies identified by the Court
7 in that order; or

8 b. Notify the Court in writing that he does not wish to file a third amended
9 complaint, and he is willing to proceed only on his cognizable claim against
10 Defendants Edgar Davalos, James York, Sgt. Moises Martinez, Edgar Diaz,
11 and Lt. Joshua Stephens for excessive force.

12 3. Plaintiff is cautioned that if he fails to comply with the Court's order, then the Court
13 will recommend dismissal of this action, without prejudice, for failure to obey a court
14 order and for failure to prosecute.

15 IT IS SO ORDERED.

16 Dated: March 25, 2025

17 /s/ *Barbara A. McAuliffe*
18 UNITED STATES MAGISTRATE JUDGE

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